

ENSURING OPEN LOCAL MARKETS

V. Carrier-to-Carrier Performance Plan (Including Performance Measurements)

16. In the Bell Atlantic/GTE Service Area, Bell Atlantic/GTE shall implement the Carrier-to-Carrier Performance Assurance Plan (“the Plan”) described herein and in Attachment A. The Plan has two elements. First, it requires Bell Atlantic/GTE to report, on a monthly basis and in each of the Bell Atlantic/GTE States, its performance in the 17 measurement categories (with sub-measurements) identified in Attachments A-1a and A-1b that address functions that may have a particularly direct effect on Bell Atlantic/GTE’s local competitors and their customers. This information will be made available on an Internet web-site and will provide the Commission, state commissions, and CLECs new tools to verify and benchmark Bell Atlantic/GTE’s performance in these measurement and sub-measurement categories.¹ Second, the Plan obligates Bell Atlantic/GTE to make voluntary payments of up to \$1.164 billion over 3 years to the U.S. Treasury based on Bell Atlantic/GTE’s performance in the measurement categories identified in Attachments A-1a and A-1b. These payments may reach as much as \$259 million in the first year, \$389 million in the second year, and \$516 million in the third year. The \$1.164 billion total voluntary payment for which Bell Atlantic/GTE may be liable may be reduced by up to \$125 million if Bell Atlantic/GTE completes the OSS commitments provided for in these Conditions ahead of schedule. See Attachment A, Paragraph 11. The Plan does not limit the authority of any state to adopt additional or different state performance monitoring requirements or associated remedies.

17. The Plan shall be effective for the Bell Atlantic/GTE Service Area within each Bell Atlantic/GTE State until the earlier of (i) 36 months after the date that Bell Atlantic/GTE is first potentially obligated to make Plan payments for that state, (ii) for the Bell Atlantic Service Areas on a state-by-state basis, the first date on which Bell Atlantic is authorized to provide in-region, interLATA services in that state pursuant to 47 U.S.C. § 271(d)(3), or (iii) on a state-by-state basis, the effective date of a comprehensive performance plan adopted by a state commission applicable to Bell Atlantic/GTE.² Not later than 10 business days after the relevant deadlines under this Section V, Bell Atlantic/GTE shall file with the Secretary of the Commission notices regarding its satisfaction of the deadlines listed below.

¹ Links to the information must be displayed prominently on the initial page of Bell Atlantic/GTE’s corporate website for CLECs or as otherwise directed by the Chief of the Common Carrier Bureau to ensure easy accessibility.

² The Common Carrier Bureau Chief shall determine whether a state-approved performance reporting and enforcement mechanism is “comprehensive” for the purpose of this Section. A state-approved mechanism may be determined not to be “comprehensive” if, for example, it omits a particular measurement or category of measurements deemed important by the Common Carrier Bureau Chief. The Common Carrier Bureau Chief may decide to retain part of the reporting and penalty obligations associated with these Merger Conditions where a state-approved mechanism is determined not to be comprehensive.

a. In the Bell Atlantic Service Areas, Bell Atlantic/GTE shall implement the performance measurements shown on Attachments A-2a and A-5a (which are based on the performance plan adopted by the New York Public Service Commission in connection with Bell Atlantic's Section 271 proceeding) and provide the Commission with 2 months of performance data on these measurements, by the first day of the first month that begins more than 90 days after the Merger Closing Date. Beginning with the first month that starts at least 270 days after the Merger Closing Date, Bell Atlantic/GTE's performance shall be used to determine whether Bell Atlantic/GTE shall be obligated to make voluntary payments to the U.S. Treasury, as set forth in the Plan. Bell Atlantic/GTE's performance in prior months shall not be used to determine whether Bell Atlantic/GTE shall make voluntary payments.

b. For the GTE Service Areas, Bell Atlantic/GTE shall implement the performance measurements shown in Attachments A-2b and A-5b (which are based on the California Public Utilities Commission's performance plan applicable to GTE) and provide 2 months of performance data on these measurements, by the first day of the first month that begins more than 90 days after the Merger Closing Date, except for performance measurements PR-3 and NP-2 which shall be implemented no later than 150 days after the Merger Closing Date. Beginning with the first month that starts at least 270 days after the Merger Closing Date, Bell Atlantic/GTE's performance shall be used to determine whether Bell Atlantic/GTE shall be obligated to make voluntary payments to the U.S. Treasury, as set forth in the Plan. Bell Atlantic/GTE's performance in prior months shall not be used to determine whether Bell Atlantic/GTE shall make voluntary payments.

ENSURING COMPLIANCE WITH AND ENFORCEMENT OF THESE CONDITIONS

XXI. Compliance Program

55. Bell Atlantic/GTE shall establish a Compliance Program as follows:

a. Bell Atlantic/GTE shall appoint a senior corporate officer to oversee Bell Atlantic/GTE's implementation of, and compliance with, these Conditions; to monitor Bell Atlantic/GTE's compliance program and progress toward meeting the deadlines specified herein; to provide periodic reports regarding Bell Atlantic/GTE's compliance as required by these Conditions; to ensure that payments due under these Conditions are timely made; and to consult with the Chief of the Common Carrier Bureau and other appropriate individuals as the Chief deems necessary on an ongoing basis regarding Bell Atlantic/GTE's compliance with these Conditions. The corporate compliance officer shall provide copies of all notices Bell Atlantic/GTE provides to the Commission or a state commission to the independent auditor required under Paragraph 56 and shall consult with the independent auditor regarding Bell Atlantic/GTE's progress in meeting the deadlines and milestones specified in these Conditions. The corporate compliance officer may be the same corporate officer with responsibility for Bell Atlantic/GTE's compliance with Section 272 obligations. The audit committee of Bell Atlantic/GTE's Board of Directors shall oversee the corporate compliance officer's fulfillment of these responsibilities. The requirements of this Subparagraph shall remain in effect until all other Conditions have expired.

b. Not later than 60 days after the Merger Closing Date, Bell Atlantic/GTE shall submit to the Common Carrier Bureau's Audit Staff ("Audit Staff") for review and comment a plan for compliance with these Conditions. The compliance plan shall be afforded confidential treatment in accordance with the Commission's normal processes and procedures. A letter providing notice of the filing shall be filed the same day with the Secretary of the Commission for the public record. Bell Atlantic/GTE will make a redacted version of the compliance plan publicly available.

c. Following the Merger Closing Date, Bell Atlantic/GTE shall submit to the Audit Staff and file for the public record (except for materials for which confidential treatment is requested) an annual compliance report detailing Bell Atlantic/GTE's compliance with these Conditions during the preceding calendar year. This annual compliance report shall be submitted no later than March 15 (or the first business day thereafter) of the calendar year following the year covered by the report. A report shall be filed for each calendar year in which Bell Atlantic/GTE is subject to obligations under other Sections of these Conditions. The annual compliance report shall address Bell Atlantic/GTE's compliance with these Conditions and the sufficiency of Bell Atlantic/GTE's internal controls for complying, shall include a discussion of the efficiencies realized as a result of the merger, and shall be prepared in a format substantially similar, in relevant respects, to the format of the independent auditor's section of the audit report described in Subparagraph 56f, below.

XXIII. Enforcement

58. The specific enforcement mechanisms established by these Conditions do not abrogate, supersede, limit, or otherwise replace the Commission's powers under the Communications Act. Performance or non-performance of these Conditions by Bell Atlantic/GTE does not in itself constitute compliance or non-compliance with any federal, state, or local law or regulation, except Bell Atlantic/GTE's obligation to perform these Conditions. The payments for non-performance specifically required by these Conditions, to which Bell Atlantic/GTE has voluntarily agreed, are payments in the public interest and are not penalties, forfeitures, or fines.

59. If the Chief of the Common Carrier Bureau makes a determination that Bell Atlantic/GTE has during the effective period of a Condition failed to comply with that Condition, the Bureau Chief may, at his or her discretion, extend the effective period of that Condition for a period that does not exceed the period during which Bell Atlantic/GTE failed to comply with the Condition. If the failure to comply that causes the Bureau Chief to extend a Condition also has had the effect of denying a person or entity access to a facility or service or the intended benefit required to be provided under another of these Conditions, the Bureau Chief may, in his or her discretion, extend the period during which Bell Atlantic/GTE is required to comply with the other Condition for a period that does not exceed the period during which access to the facility or service or intended benefit was unavailable. Bell Atlantic/GTE may appeal the Bureau Chief's decisions made pursuant to this Paragraph to the Commission.

60. Bell Atlantic/GTE shall be strictly obligated to make the payments for non-performance specifically required by these Conditions, and no showing of a willful violation shall be necessary in order to enforce such payments. Bell Atlantic/GTE shall not be liable for any payments, however, if the Chief of the Common Carrier Bureau grants a waiver request filed by Bell Atlantic/GTE in which Bell Atlantic/GTE will have the burden of proof to demonstrate that the failure to meet a condition was caused by a force majeure event or an Act of God. If the Chief of the Common Carrier Bureau refuses to grant a waiver, Bell Atlantic/GTE may appeal that decision to the Commission.

61. Except as otherwise provided in these Conditions, Bell Atlantic/GTE shall make payments due under these Conditions within 10 business days of a determination by Bell Atlantic/GTE's compliance officer, the Chief of the Common Carrier Bureau, the Commission, or an arbitrator, that payment is due. If the Commission or a state commission has not taken an action to designate or administer a fund that is required in order for Bell Atlantic/GTE to make a payment required under these Conditions, Bell Atlantic/GTE shall make its payment into an interest bearing escrow account pending such action. If Bell Atlantic/GTE's obligation to make a payment is disputed by Bell Atlantic/GTE, Bell Atlantic/GTE shall make the disputed payment into an interest bearing escrow account within 10 business days of the date the payment was due. Within 10 business days of making a payment of a disputed amount into escrow, Bell Atlantic/GTE shall file with the Commission a verified statement of the grounds on which payment is not required. Subject to rights of rehearing and appeal, the escrowed payments (including any accrued interest) shall be returned to Bell Atlantic/GTE or paid to the

appropriate fund in accordance with the final and non-appealable Commission or judicial order resolving the dispute. A decision by the Chief of the Common Carrier Bureau under this Paragraph is appealable to the Commission.

62. The Chief of the Common Carrier Bureau may in his or her discretion, upon a request and showing of good cause by Bell Atlantic/GTE, grant extensions of deadlines established by these Conditions.

63. Bell Atlantic/GTE shall not be excused from its obligations under these federal Conditions on the basis that a state commission lacks jurisdiction under state law to perform an act specified or required by these Conditions (e.g., review and approve interconnection agreement amendments, or determine if telecommunications providers violate requirements associated with the promotional discounts).

